THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 5478 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking to issue a writ of Habeas Corpus directing the respondents to produce the alleged detenu Thirupathi Srinivas and to order his release by declaring his detention order dated 3.1.2007 and G.O.Rt. No.1081 dated 27.2.2007 by 2nd and 1st respondents respectively as illegal and void.

By the impugned order dated 3.1.2007, the 2nd respondent directed detention of the petitioner by invoking the provisions under the A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short, 'the Act') on the ground that the petitioner is found to be a Bootlegger within the meaning of Section 2(a) and (b) of the Act and his activities are causing injury to public health.

The case of the petitioner – detenu is that the detention order is made without any prima facie case against the petitioner and by making false and untenable allegations; that the grounds for his detention were not served on him as stipulated under Section 8 of the Act and on 23.1.2007 the officials of Excise Department took away the petitioner without informing anything to him and lodged him in Central Jail, Chanchalguda and that he was served with the papers after putting him in jail and he could not understand the contents of the detention order etc. as the same were not in the language known to

him; that the respondents have acted illegally and arbitrarily in ordering his detention though he is not involved in any illegal activity which affects the public order and therefore the orders of the 1st and 2nd respondents which are impugned in this writ petition may be set aside and he may be released forthwith.

Pursuant to the notice issued by this Court on 16.3.2007, a detailed counter affidavit has been filed by the 2nd respondent – District Collector & District Magistrate & Detaining Authority, Adilabad District. It is stated in the counter affidavit that the petitioner has been indulging in the offences of possession, transportation and sale of I.D. Liquor in and around CCC Naspur, Mancherial Mandal in the manner prejudicial to the maintenance of public order and tranquillity and various cases have been registered against him, namely, COR No. 135/2006-07, dated 22.5.2006 of Prohibition and Excise Station, Mancherial, COR No. 317/2006-07, dated 26.8.2006 Prohibition and Excise Station, Mancherial and COR No. 474/2006-07 dated 17.10.2006 of Prohibition and Excise Station, Mancherial for possessing and transporting 30 litres, 20 litres and 5 litres of I.D. Liquor respectively and the samples of the same were sent for chemical examination and the said samples were found to contain "illicitly distilled liquor, unfit for potable purpose". It is further stated in the counter affidavit that at the time of taking the petitioner into custody the order of detention, grounds of detention and material relied upon were duly served on the detenu and acknowledged by him, and the detenu was duly informed that he has a right to make representation to the Detaining Authority, Chief Secretary to Government and Advisory Board. The Government also issued G.O.Rt. No. 229, General Administration (Law & Order.II) Department dated 11.1.2007 approving the order of detention. The orders passed against the detenu were

placed before the Advisory Board in its meeting held on 22.2.2007 and the Advisory Board has given its opinion that there is sufficient cause for the detention of the detenu and basing on the recommendations of the Advisory Board, the Government issued G.O.Rt. No. 1081, General Administration (Law & Order.II) Department, dated 27.2.2007 confirming the order of detention and fixing the period of detention for a period of 12 months from the date of his detention. It is specifically pleaded in the counter affidavit that the petitioner was taken into custody on 23.1.2007 and on the same day the relevant material was served on the detenu in both English and Telugu and the allegation that the petitioner was not served with the material in the language known to him is false. It is further pleaded that as the detenu was continuously indulging in bootlegging activities in spite of registration of crimes against him and as the activities of the detenu clearly attract the expression 'bootlegger' as defined under Section 2(b) of the A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 the detention order under the said Act was passed after following the due procedure and therefore there are no grounds in the writ petition and the writ petition is liable to be dismissed.

We have gone through the entire material available on record and heard the learned counsel for the petitioner as well as the learned Assistant Government Pleader, appearing on behalf of the Advocate General, for the respondents. As could be seen from the material placed before this Court, the contention of the learned counsel for the petitioner that the detention order was passed illegally and arbitrarily cannot be sustained for the reason that various cases have been registered against the petitioner for indulging in bootlegging activities, as pointed out supra. The entire matter was considered by

the 2nd respondent in a proper perspective and having regard to the activities committed by the petitioner, which attract the provisions of the expression 'bootlegger' under the Act, the 2nd respondent was right in passing the impugned detention order. The allegation that the grounds were not served on him as stipulated under the Act cannot be countenanced for the reason that it is specifically stated in the counter affidavit that the detenu was taken into custody on 23.1.2007 and on the same day the material relied on by the 2nd respondent for passing the order of detention was served on the detenu in both English and Telugu. In the affidavit filed in support of the writ petition also it is stated that the officials of Excise Department took away the petitioner on 23.1.2007. Section 8 of the Act stipulates that when a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the Government. In this case, the detention was made on 23.1.2007 and on the same day the material was served on the detenu. Therefore, it cannot be said that the grounds were served on the detenu belatedly.

The contention of the learned counsel for the petitioner is that the petitioner is not involved in any activities of bootlegging. But, it is evident from the material placed before this Court that the samples of the I.D. liquor seized from the possession of the petitioner were sent for chemical examination and it has come out in the chemical examination that the samples contain illicitly distilled liquor, unfit for potable purpose. The matter was placed before the Advisory Board and the Advisory Board in its meeting held on 22.2.2007 held that there is sufficient cause for the detention of the detenu, basing on

which the Government issued G.O.Rt. No. 1081 General Administration (Law & Order.II) Department, dated 27.2.2007. The detention order dated 3.1.2007 clearly states the grounds and the reasons on which the detention was ordered. Thus, there is no deviation from the procedure as contemplated under the Act.

Having regard to the facts and circumstances of the case, this Court is satisfied that the orders impugned in this writ petition are based on sound reasoning and that no irregularity or illegality is committed in passing such orders.

There are no merits in this writ petition. It is accordingly dismissed.

T. MEENA

KUMARI, J.

G. CHANDRAIAH, J.

Date: 12-04-2007.

MVB.